

REMARKS

Claims 1-22 were examined, with claims 1, 12, 13 and 22 being independent. By present amendment, claims 1, 12, 13 and 22 were amended to more particularly point out and distinctly claim the subject matter that the Applicants regard as the invention. No claims have been canceled. No claims have been added. No new subject matter has been added to the application. Thus, after entry of this Amendment, claims 1-22 will remain pending in the application.

Acknowledgment of Priority

Applicant gratefully acknowledges the Examiner's entry of Applicant's priority papers.

Rejections under 35 U.S.C. §102(b)

Claims 1-3, 5, 6, 9-17, 20 and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4, 934, 544 to Han et al. (Han).

The Patent Office states that Han teaches a film composite in FIGS. 1-3, having an adhesive layer 34, 38, a sealing layer 32, a facing layer 40 and a fold at 24.

Applicant respectfully disagrees.

Han discloses an innerseal 18 with a first sealing portion 20, a second sealing portion 22, and a fold-over portion 24 positioned between the first sealing portion 20 and the second sealing portion 22. Each portion 20, 22, 24 is formed from a single continuously extending sheet of common layered material. The composite foil 30 from which the innerseal 18 is formed includes a plurality of layers 32, 36, 40 with adhesive layers 34, 38 being provided between the layers as shown in FIG. 3. Thus, in Han, each layer of the composite foil is included in the fold-over portion 24.

In contrast, the invention as claimed in independent claims 1 and 12 recites that “only” the uppermost layer of the composite foil has an upwardly projecting fold, which feature is not disclosed, taught or suggested in the prior art.

Similarly, the invention as claimed in independent claims 13 and 22 recites that “...the upper layer includes an upper surface having a surface area, and an engagement device constructed and arranged from only the upper layer and projecting upwardly from the upper surface,” which feature also is not disclosed, taught or suggested in the prior art.

Because each and every element of independent claims 1, 12, 13, and 22 is not disclosed in Han, the claims cannot be anticipated and are allowable. The claims that depend from independent claims 1, 12, 13 and 22 directly or indirectly are allowable for at least the same reasons. Withdrawal of the rejection is respectfully requested.

In addition, the features that “only” the uppermost layer of the composite foil has an upwardly projecting fold, or that “...the engagement member is constructed and arranged from only the upper layer...” are not disclosed, taught or suggested in the prior art, nor is there any motivation found in the prior art for including a fold only in the uppermost layer or forming an engagement member only from the upper layer. In other words, to arrive at the presently claimed invention, Han would require modification to remove the folds from the layers other than the uppermost layer, and there is simply no reason to do so other than using hindsight reasoning based on the present application.

Rejections under 35 U.S.C. §103(a)

A. Dependent claims 4 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Han.

The Patent Office acknowledges that Han fails to disclose the specific percentages of the two areas on either side of the fold. The Patent Office states that a change in size is generally recognized as being within the level of ordinary skill in the art.

Applicants respectfully traverse the rejection.

In addition to failing to disclose the specific percentages of the two areas of either side of the fold, Han suffers from the same deficiencies discussed above. Thus, as stated above, Han is deficient because it fails to disclose, teach or suggest the presently claimed film composite that includes a plurality of layers, and in which only the upper-most layer (33) of the film composite comprises an upwardly projecting fold, or in which an engagement device constructed and arranged only from the upper layer projects upwardly from the upper surface.

Therefore, even if the Patent Office were correct that such a change in size of the areas on either side of the fold were within the level of ordinary skill in the art, which Applicant disputes, Han remains deficient as a reference for the reasons noted above - it fails to disclose a fold in the uppermost layer of the film composite, or in which an engagement device constructed and arranged only from the upper layer projects upwardly from the upper surface. Han also fails to provide any motivation to modify the layers.

Dependent claims 4 and 21 are therefore patentable over Han. The claims that depend from claims 4 and 21 directly or indirectly are patentable for at least the same reasons. Withdrawal of the rejection is respectfully requested.

B. Dependent claims 7, 8, 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Han.

The Patent Office acknowledges that Han fails to disclose the specific length of the fold. The Patent Office states that a change in size is generally recognized as being within the level of ordinary skill in the art.

Applicants respectfully traverse the rejection.

In addition to failing to disclose the specific length of the fold, Han suffers from the same deficiencies discussed above. Thus, as stated above, Han is deficient because it fails to disclose, teach or suggest the presently claimed film composite that includes a plurality of layers, and in which only the upper-most layer (33) of the film composite comprises an upwardly projecting fold or in which an engagement device constructed and arranged only from the upper layer projects upwardly from the upper surface.

Therefore, even if the Patent Office were correct that such a change in size of the specific length of the fold was within the level of ordinary skill in the art, which Applicant disputes, Han remains deficient as a reference for the reasons noted above - it fails to disclose a fold in the uppermost layer of the film composite, or an engagement device constructed and arranged only from the upper layer projects upwardly from the upper surface. Han also fails to provide any motivation to modify the layers.

Dependent claims 7, 8, 18 and 19 are therefore patentable over Han. The claims that depend from claims 7, 8, 18 and 19 directly or indirectly are patentable for at least the same reasons. Withdrawal of the rejection is respectfully requested.

Art Unit: 3727
Serial No: 10/009,429
Examiner: Eloshway, Niki Marina

CONCLUSION

In view of the foregoing amendments and remarks, the Applicants respectfully submit that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicants hereby request a telephone or personal interview to facilitate the resolution of any remaining matters. Applicants' attorney may be contacted by telephone at the number indicated below to schedule such an interview.

The U.S. Patent and Trademark Office is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our deposit account #19-0120.

Respectfully submitted,
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Dated: October 9, 2003

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